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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,806	08/11/2000	Douglas W. Versaw	S123	7708

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/637,806

Applicant(s)

VERSAW, DOUGLAS W.

Examiner

Anne Marie M Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman in view of Neal.

Neal shows a motorcycle 1 with a ball hitch 37, a two-wheeled trailer with a tongue 32 having a bent extension piece 33 and a ball socket member at its front end.

Neal fails to teach using square tubing and removably attaching the extension piece to the tongue.

Kauffman shows a two-wheeled trailer with a draw bar 40 and a square channel extension piece 22. The extension piece includes a middle segment, a front attachment for mounting a socket mechanism, and a rear attachment for removable connection to the trailer tongue. Transverse pins 47, 49, removable connect the extension to the tongue.

It would have been obvious to one of ordinary skill in the art to make the Neal tongue and extension with square tubing, as taught by Kauffman, in order to strengthen the tongue. It would also have been obvious to one of ordinary skill in the art to removably connect the extension piece using a transverse pin, as taught by Kauffman, in order to reduce the length of the trailer when not in use.

3. Claims 1, 2, 4-6, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alford.

Alford shows a motorcycle hitch assembly with first and second side members 30, 32, which are bend to be concave down and which are removably attached to the motorcycle frame. A cross member 35 interconnects the side members and supports a ball hitch 18. The side members fit inside the fender. The ball hitch is removably connected to the cross member via a releasable attachment 26 and/or by a removable nut 22.

Alford shows ends of the side members extending farther down than the cross member. It would have been an obvious design choice to trim the ends of the side members, which serve no apparent purpose, in order to reduce the overall weight of the hitch assembly.

4. Claims 1, 2, 4-6, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alford in view of Maier.

Alford shows a motorcycle hitch assembly with first and second side members 30, 32, which are bend to be concave down and which are removably attached to the motorcycle frame. A cross member 35 interconnects the side members and supports a ball hitch 18. The side members fit inside the fender. The ball hitch is removably connected to the cross member via a releasable attachment 26 and/or by a removable nut 22.

Alford shows the ends of the side members extending farther than the cross member.

Maier shows a ball hitch mount for a small straddle seat vehicle including a pair of side members 34, 36, and a front cross member 30 on which the ball hitch 16 is mounted. The ball hitch is mounted via a tubular receiver which does not extend beyond the rearward most edge of the cross member. Maier indicates the receiver may be round, as shown, or square.

It would have been obvious to one of ordinary skill in the art to terminate the ends of the cross members of the Alford hitch side members at the cross member and have the hitch receiver extend no farther than the rearward most edge of the side members, as taught by Maier, in order to provide a smooth rear edge for the mounting which lessens the likelihood of injury due to contact with the hitch and receiver.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alford as applied to claim 1 above, and further in view of McIntosh.

Alford lacks a means for leveling the trailer when the trailer and motorcycle are coupled.

McIntosh shows a ball hitch height adjustment mechanism which allows for leveling of a trailer when the trailer is attached to a towing vehicle.

It would have been obvious to one of ordinary skill in the art to provide a height adjustment mechanism for the Alford hitch assembly, as taught by McIntosh, in order to adjust the height and angle of the connection for stable towing.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman in view of Lazar.

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Kauffman is silent regarding a pin for removably connecting the hitch socket to the extension. However, this arrangement is conventional and demonstrated by Lazar, which shows a transverse bolt for removably connecting hitch socket 26 to trailer tongue 24.

It would have been obvious to one of ordinary skill in the art to removably connect the hitch cup or socket 56 of Kauffman to arm 22 using a transverse pin, as is old and well known and taught by Lazar, in order to remove the socket for routine maintenance and repair.

7. Applicant's arguments filed January 19, 2005 have been fully considered but they are not persuasive.

Applicant argues that Alford is not prior art, under 335 USC 102e, because provisional application number 60/139,064 shows applicant's invention predates the reference. However, because applicant's provisional application went abandoned before the present application was filed, the applications lack copendency. Therefore, the provisional application cannot be relied on as providing an earlier filing date. The provisional application, therefore, only shows evidence of conception on a particular date (see MPEP 2138.04). Therefore, applicant must show diligence from the time just prior to the reference filing date to either 1) the actual filing date of the nonprovisional application or 2) the date of actual reduction to practice. A 131 affidavit is required. (See MPEP 715.07(a) for requirements to show diligence.)

Applicant argues that the Kauffman discloses a car towing trailer while Neal discloses a utility trailer, and therefore, the references address non-analogous art. The

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examiner disagrees. Kauffman shows an embodiment, in Figures 8 and 9, of a utility trailer using the extension piece 22, rather than a car towing trailer. The examiner also maintains that Kauffman and Neal teach similar trailer structures that are closely analogous. Kauffman and Neal both disclose compact two-wheels trailers with a load-bearing portion that is relatively low. In both the load is lowered by providing a bent tow arm so that the load-bearing frame is lower than the hitch connection. Therefore, the examiner maintains that one of ordinary skill in the art would consult similar trailer structures, such as these, when seeking to modify an existing structure.

Applicant indicates there is no motivation to combine the Neal and Kauffman references to provide the Neal trailer with square tubing and to make the extension piece removable.. The examiner disagrees. Kauffman specifically teaches, in col. 4 lines 12-16, making the tow bar 22 removable from channel beam 40 to make the towing carriage "quickly and easily disassembled into small, easy to store components". Therefore, Kauffman provides the motivation to make a tow bar removable for the purpose of storage. Also, Kauffman, in col. 4, lines 19-21, teaches that it is preferred to make the tow bar 22 from "square tubing". While Kauffman does not give the reason for using square tubing, one of ordinary skill in the art would have been well aware of the strength advantage that tubular members provide over plates. Even in applications where "super-strength" is not needed, tubular members allow the structure to use less material and, therefore, be lighter in weight for the given strength requirement. Therefore, the references and the level of ordinary skill in the art are believed to provide abundant motivation to combine the references.

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Applicant also argues that it would not be obvious to modify Alford to eliminate the portions of the side members that extend beyond the cross member. The examiner disagrees. There is no description in Alford of the distal ends of the side members and no discussion of any use or advantage to having them extend beyond the cross member. While they may provide some limited degree of lateral stability to the hitch mount, they also add unnecessary weight. The examiner maintains it is old and well known and taught by prior art of record to have mount side members end at a rear cross member and that this configuration has the advantage of minimizing weight. Therefore, the examiner is maintaining the rejection.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-

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308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5/1/05

Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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